

DEVIN DERHAM-BURK #104353
CHAPTER 13 STANDING TRUSTEE
P O Box 50013
San Jose, CA 95150-0013

Telephone: (408) 354-4413
Facsimile: (408) 354-5513

Trustee for Debtor(s)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5

In re:

BRIGGS, MICHAEL

Debtor(s)

)
)
) Chapter 13
) Case No. 10-52795 ASW
)
) **2ND AMENDED**
) **TRUSTEE'S OBJECTION TO**
) **CONFIRMATION WITH CERTIFICATE OF**
) **SERVICE**
)
) Pre-Hearing Conference Date: SEPTEMBER 13,
) 2010
) Pre-Hearing Conference Time: 2:00 PM
) Place: 280 S. 1st Street Room 3020
) San Jose, CA
) Judge: Arthur S. Weissbrodt

Devin Derham-Burk, Trustee in the above matter, objects to the Confirmation of this 0% Plan for the following reasons:

1. There appears to be a violation of Section 1322(d) in that the term of the Chapter 13 Plan, filed on June 22, 2010 [Docket #34], exceeds 60 months. The term is approximately 63 months.
2. The debtor's Chapter 13 Plan was not filed with the Petition, and was not filed in time to be served with the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors and Deadlines. The debtor must serve all creditors with the Chapter 13 Plan, along with the applicable "Notice to Creditors Regarding Plan Provisions," and the "Order Establishing Procedures for Objection to Confirmation."

3. The debtor has listed Navy Federal Credit Union in Section 4 and Section 7 of the Chapter 13 Plan filed on June 22, 2010 [Docket #34], for 4 (four) separate debts. Clarification is needed in order to properly administer the claims, therefore, the Trustee requests that the debtor amend the Chapter 13 Plan to provide the account number for each debt. Further, the Trustee requests that a proof of service be provided showing that Navy Federal Credit Union has received notice of the amended plan.
4. Pursuant to Section 4 of the Chapter 13 Plan, filed on June 22, 2010 [Docket #34], Navy Federal Credit Union is listed twice for the debtor to pay \$155.45 and \$108.76 a month direct for a 2002 Avalanche Truck and 2 (two) 2002 Jet ski (sic). The Trustee must be the disbursing agent on all pre-petition obligations with the exception of on-going mortgage payments and leased car payments.
5. Section 7 of the Chapter 13 Plan, filed on June 22, 2010 [Docket #34], states: "Navy Federal Credit Union: Debtor(s) intend to avoid lien," and "Navy Federal Credit Union: Debtor(s) intend to avoid lien." This language does not adequately provide for the treatment of the claims. The Trustee suggests that the following language be added to Section 7: "The Trustee shall make disbursements to the creditors pursuant to Section 2(d)."
6. Pursuant to Schedule J, filed on June 22, 2010 [Docket #30], debtor is budgeting \$3,388.17 per month for the mortgage payment on the real property located at 6110 Heathercreek Way San Jose, CA. Said mortgage payment has been omitted from Section 4 of the Chapter 13 Plan, filed on June 22, 2010 [Docket #34]. An Amended Plan must be filed and served accordingly.
7. Pursuant to Schedule J and the attachment to Schedule J filed on June 22, 2010 [Docket #30] debtor is budgeting \$200.00 per month for Property Taxes for Featherby Home and \$66.50 per month for Property Insurance for Featehrby (sic) Home. Debtor has failed to list said property on Schedule A and Schedule D filed on June 22, 2010 [Docket #30]. The proper amendments must be filed.

- 1 8. Debtor has failed to complete lines 2 through 15 and lines 18 through 59 of the Chapter
2 13 Statement of Current Monthly Income and Calculation of Commitment Period and
3 Disposable Income filed on June 22, 2010 [Docket #33].
- 4 9. Aurora Loan Services account #6395, Bank of America account #8354, Bank of America
5 account #3596, Navy Federal Credit Union account #2099, Navy Federal Credit Union
6 account #5898, Navy Federal Credit Union account #0509, and Navy Federal Credit
7 Union account #0510 are listed in Schedule D filed on June 22, 2010 [Docket #30]
8 however, said creditors have been omitted from the court's Certificate of Service for the
9 Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & deadlines. The debtor
10 must serve said creditors with the Notice of Chapter 13 Bankruptcy Case, Meeting of
11 Creditors, & Deadlines and the Chapter 13 Plan, along with the **applicable** "Notice to
12 Creditors Regarding Plan Provisions," and the "Order Establishing Procedures for
13 Objection to Confirmation."
- 14 10. Advanta Bank Corp account #0321, Capital One, N.a. (sic) account #7496, Cba
15 Collecttion (sic) Bureau account #6204, Chase account #6179, Citi account #5511, Citi
16 account #5039, Citi account #0004, Hsbc/hbsb na (sic) account #7335, Navy Fcu account
17 #0000, and Shell Oil/Citibank account #8421 are listed in Schedule F filed on June 22,
18 2010 [Docket #30] however, said creditors have been omitted from the court's Certificate
19 of Service for the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, &
20 deadlines. The debtor must serve said creditors with the Notice of Chapter 13
21 Bankruptcy Case, Meeting of Creditors, & Deadlines and the Chapter 13 Plan, along with
22 the **applicable** "Notice to Creditors Regarding Plan Provisions," and the "Order
23 Establishing Procedures for Objection to Confirmation."

24
25 Dated: July 6, 2010

/S/ Devin Derham-Burk

26 _____
Chapter 13 Trustee

27
28
Trustee's Obj to Confirmation 10-52795 ASW-

1
2 **CERTIFICATE OF SERVICE BY MAIL**
3

4 I declare that I am over the age of 18 years, not a party to the within cause; my business
5 address is 983 University Ave. C-100, Los Gatos, California 95032. I served a copy of the
6 within Trustee's 2nd Amended Objection to Confirmation by placing same in an envelope in the
7 U.S. Mail at Los Gatos, California on July 6, 2010.

8 Said envelopes were addressed as follows:
9

10 MICHAEL BRIGGS
11 6110 HEATHERCREEK WAY
12 SAN JOSE, CA 95123

BRADFORD J HODACH, ESQ
1212 BROADWAY
OAKLAND, CA 94612

13
14 /S/ Erin Chew
15 Office of Devin Derham-Burk, Trustee
16
17
18
19
20
21
22
23
24
25
26
27
28

Trustee's Obj to Confirmation 10-52795 ASW-